

Introduced by Senator Yee

February 6, 2012

An act to amend Section 6253.9 of, and to add Article 5.5 (commencing with Section 11085) to Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, as introduced, Yee. Public records: electronic format.

(1) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure. The act requires any agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by any person. The act requires the agency to make the information available in any electronic format in which it holds the information.

This bill would authorize an agency, when requested by a person, to provide an electronic record in a format in which the text in the electronic record is searchable by commonly used software. The bill would require the requester to bear the cost of converting the electronic record into a searchable format.

This bill would also make technical, nonsubstantive changes to these provisions.

(2) Existing law requires certain state agencies to make specified data or documents available on the Internet.

This bill would require the data or document to be made available in a format that is user-friendly and accessible, as defined. This requirement

would not apply if the state agency does not have the data or document available for internal use in a user-friendly and accessible format.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6253.9 of the Government Code is
2 amended to read:

3 6253.9. (a) Unless otherwise prohibited by law, any agency
4 that has information that constitutes an identifiable public record
5 not exempt from disclosure pursuant to this chapter that is in an
6 electronic format shall make that information available in an
7 electronic format when requested by any person and, when
8 applicable, shall comply with the following:

9 (1) The agency shall make the information available in any
10 electronic format in which it holds the information.

11 (2) Each agency shall provide a copy of an electronic record in
12 the format requested if the requested format is one that has been
13 used by the agency to create copies for its own use or for provision
14 to other agencies. The cost of duplication shall be limited to the
15 direct cost of producing a copy of a record in an electronic format.

16 (b) Notwithstanding paragraph (2) of subdivision (a), the
17 requester shall bear the cost of producing a copy of the record,
18 including the cost to construct a record, and the cost of
19 programming and computer services necessary to produce a copy
20 of the record when either of the following applies:

21 (1) In order to comply with ~~the provisions of~~ subdivision (a),
22 the public agency would be required to produce a copy of an
23 electronic record and the record is one that is produced only at
24 otherwise regularly scheduled intervals.

25 (2) The request would require data compilation, extraction, or
26 programming to produce the record.

27 ~~(c) Nothing in this~~ This section shall *not* be construed to require
28 the public agency to reconstruct a record in an electronic format
29 if the agency no longer has the record available in an electronic
30 format.

31 (d) If the request is for information in other than electronic
32 format, and the information also is in electronic format, the agency

1 may inform the requester that the information is available in
2 electronic format.

3 *(e) At the request of a person, an agency may provide an*
4 *electronic record in a format in which the text in the electronic*
5 *record is searchable by commonly used software if the agency*
6 *does not already have the electronic record in a searchable format.*
7 *The requester shall bear the cost, if any, of converting the*
8 *electronic record into a searchable format, including the cost of*
9 *programming and computer services necessary to produce the*
10 *electronic record.*

11 ~~(e)~~
12 ~~(f) Nothing in this~~ This section shall *not* be construed to permit
13 an agency to make information available only in an electronic
14 format.

15 ~~(f)~~
16 ~~(g) Nothing in this~~ This section shall *not* be construed to require
17 the public agency to release an electronic record in the electronic
18 form in which it is held by the agency if its release would
19 jeopardize or compromise the security or integrity of the original
20 record or of any proprietary software in which it is maintained.

21 ~~(g)~~
22 ~~(h) Nothing in this~~ This section shall *not* be construed to permit
23 public access to records held by any agency to which access is
24 otherwise restricted by statute.

25 SEC. 2. Article 5.5 (commencing with Section 11085) is added
26 to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
27 Code, to read:

28
29 Article 5.5. California Open Data Standard
30

31 11085. (a) Whenever a state agency is required by law to make
32 data or a document available on the Internet, the data or document
33 shall be in a format that is user-friendly and accessible. This
34 paragraph shall not apply when the state agency does not have the
35 data or document available for internal use in a user-friendly and
36 accessible format.

37 (b) For purposes of this article, “user-friendly and accessible”
38 means:

39 (1) The data or document can be copied and downloaded by
40 using commonly used software and Internet applications.

1 (2) The text of the data or the text in the document can be
2 searched by using commonly used software and Internet
3 applications.

4 (3) The data or document is searchable on the Internet by
5 commonly used Internet search engines.

6 (c) This section shall not be construed to require a state agency
7 to convert any data or document into a format that is user-friendly
8 and accessible.